



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

PEDRO NOSNIK, MD PA

Respondent Name

NATIONAL AMERICAN INSURANCE CO

MFDR Tracking Number

M4-10-4465-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

JUNE 22, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per EOB claim CPT 95920 included in another procedure. CPT 95936 duplicate billing. This is not a duplicate notice the '76' modifier on the 2nd CPT 95936."

Amount in Dispute: \$221.69

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a response to this request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 25, 2010	CPT Code 95920-59-TC Intraoperative Neurophysiology Testing, per hour	\$198.18	\$0.00
	CPT Code 95936-TC-76 H-reflex, Amplitude and Latency Study, Record Muscle Other Than Gastrocnemus/Soleus Muscle.	\$23.51	\$0.00
TOTAL		\$221.69	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, 33 *Texas Register* 364, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 97-Charge included in another charge or service.
 - B13-Payment for service may have been previously paid.
 - W1-Workers compensation state fee schedule adj.
 - R09-CCI; CPT Manual and CMS coding manual instructions.

- R01-Duplicate billing.

Issues

1. Is the value of CPT code 95920-59-TC included in the value of another procedure billed on the disputed date?
2. Is the requestor entitled to additional reimbursement for code 95936-76-TC?

Findings

1. According to the submitted explanation of benefits, the respondent denied reimbursement for CPT code 95925-59-TC based upon reason code "97."

Per 28 Texas Administrative Code §134.203(b)(1) "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

On the disputed dates of service, the requestor billed CPT code 95920-59-TC in conjunction with codes 95925-TC, 95926-TC, 95934-TC, 95934-TC-76, 95936-TC, 95936-TC-76, 95937-TC, 95861-TC, 95955-59-TC, A4556, and A4558.

According to the CCI edits, CPT code 95925 is a component of code 95955; however, a modifier is allowed to differentiate the service. The requestor appended modifier "59-Distinct Procedural Service" to code 95920.

Modifier "59" is defined as "Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."

A review of the submitted reports does not support a "different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual." The Division finds that the requestor has not supported the use of modifier "59." As a result, reimbursement is not recommended.

2. According to the submitted explanation of benefits, the respondent paid \$23.44 for CPT Code 95936-76-TC based upon the fee guideline.

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2010 DWC conversion factor for this service is 54.32.

Review of Box 32 on the CMS-1500 the services were rendered in Dallas, Texas. The Medicare conversion factor for Dallas, Texas is 36.0791.

The Medicare participating amount for code 95936 in Dallas, Texas is \$15.57.

Using the above formula, the MAR is \$23.44. The respondent paid \$23.44. As a result, \$0.00 additional reimbursement is due..

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

06/05/2014

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.